

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil No. 07-CV-4799-JRT-FLN
)	
CHARLES B. NORLEM; MIDLAND)	
MORTGAGE; LISA M. ASPELIN; STATE)	
OF MINNESOTA, MINNESOTA)	
DEPARTMENT OF REVENUE,)	
Defendants.)	

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
DEFAULT JUDGMENT AGAINST DEFENDANT LISA ASPELIN

The United States of America moves the Court, pursuant to Fed. R. Civ. P. 55(b)(2), for entry of default judgment against defendant Lisa Aspelin. This action began as a suit to reduce to judgment tax assessments against Charles B. Norlem and to foreclose federal tax liens against his real property in Hennepin County, Minnesota. The United States named Lisa Aspelin as a defendant in the case because she may claim an interest in the subject real property. Lisa Aspelin has not answered or otherwise responded to the United States' claims and on March 19, 2009, the Clerk entered default against Aspelin.

FACTS

The United States filed suit on December 11, 2007 seeking to reduce to judgment tax assessments against Charles B. Norlem and to foreclose federal tax liens against real

property owned by Norlem.¹ The subject property is located at 6257 Edgewood Ave. N., Brooklyn Park, MN 55428, with the following legal description:

Lot 5, Block 2, Larburn Addition, according to the recorded plat thereof, and situated in Hennepin County, Minnesota.²

Pursuant to 26 U.S.C. § 7403 (b), Lisa Aspelin was named as a defendant because of information that she might claim an interest in the subject property at the time of filing.³

On February 5, 2008, Lisa Aspelin was served personally with a copy of the summons and complaint. A copy of the executed return of service was filed with the court as Docket No. 12. Her answer to the complaint was due on February 25, 2008. Defendant Aspelin failed to file a response or otherwise defend the United States' claims. On application by the United States, default was entered by the Clerk as to Lisa Aspelin on March 19, 2009.⁴ As of the date of this filing, Lisa Aspelin has not filed or otherwise appeared in this case.

ARGUMENT

Rule 55(b) of the Federal Rules of Civil Procedure entitles the United States to entry of default judgment following an entry of default under 55(a) for failure to plead or otherwise appear in a civil matter. Upon entry of default, a defendant is deemed to have

¹ Docket No. 1.

² *Id.* at ¶ 13.

³ *Id.* at ¶ 5.

⁴ Docket No. 47.

admitted all well-pleaded allegations in the complaint.⁵ As outlined under Count II in the United States' complaint, federal tax liens in favor of the United States arose on the dates of assessment under 26 U.S.C. §§ 6321 and 6322, and attached to the subject property. Corresponding notices of federal tax liens were filed in Hennepin and Anoka Counties, Minnesota on November 17, 2003 and in Barron County, Wisconsin on October 23, 2006. The United States specifically did not recognize the existence of superior interests in the subject property held by Aspelin. Now that default has been entered against her, Aspelin may not contest this lack of a superior interest.⁶

In its initial prayer for relief, the United States requested the sale of the subject property "free and clear of any right, title, lien, claim or interest of any of the above-named defendants."⁷ For Aspelin's continued failure to plead or otherwise defend the allegations made in the complaint, the Court should enter default judgment against her and declare that she holds no right, title, or interest in the subject property.

CONCLUSION

⁵ *Taylor v. City of Ballwin* 859 F.2d 1330, 1333 n.7 (8th Cir.1988).

⁶ Docket No. 1, ¶¶ 12-17.

⁷ *Id.* at ¶ b.

For the reasons set forth above, the Court should enter default judgment against defendant Lisa Aspelin and dismiss her from the case.

Dated: May 29, 2009.

Respectfully submitted,

s/Shana M. Starnes

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